REMARKS

Claims 1-8 are currently pending in the application. Claims 1, 3-5, and 7-8 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,647,257 to Owensby, while Claims 2 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,470,181 to Maxwell and in further view of official notice of certain technical facts, which is improperly taken without citation of any reference. Applicant respectfully traverses all such rejections as discussed below. No new matter has been added.

The claimed invention describes advertisement providing systems and methods which enable advertisers to gain terminal users' attention by sound and to provide advertisements in sound format without the use of images, which avoids problems presented by attempts to use image-based advertising formats on terminals with low-resolution displays.

Rejection of Claims 1, 3-5, and 7-8 Under 35 U.S.C. § 102(e)

The Examiner rejected Claims 1, 3-5, and 7-8 under 35 U.S.C. § 102(e) on the basis that the Claims are anticipated by U.S. Patent No. 6,647,257 to Owensby. The Examiner views Claims 1 and 5 as anticipated by Owensby, because it "teaches transmitting sound advertisements to user terminal and user terminal outputting the sound signal," while the Examiner sees Claims 3, 4, 7, and 8 as anticipated by Owensby because it "teaches user terminal as mobile and an Internet network." Applicant respectfully traverses that rejection on the basis that Claims 1, 3-5, and 7-8 are not anticipated by Owensby because Owensby does not describe the provision of advertisements without the use of images to solve problems arising from attempts to send visual advertisements to terminals with low-resolution displays, which is a problem solved by the claimed invention as discussed in the Application at pages 2, 3-4, 9-10, 13, and 19. Owensby, by contrast, is directed to enabling sponsors to advertise on wireless mobile communications services in order to permit operators of such services to offer a pricing program to generate sufficient operating revenue and sufficient profit margins to remain profitable.

In addition, it is unclear why the Examiner has rejected Claim 4 under 35 U.S.C. § 102(e), while Claim 2, from which Claim 4 depends, is not rejected

under 35 U.S.C. § 102(e). Applicant thus traverses the rejection of Claim 4 as lacking any reasonable basis.

Claims 1, 3-5, and 7-8 are not anticipated by Owensby and should be allowed.

Rejection of Claims 2 and 6 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 2 and 6 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,470,181 to Maxwell and in further view of official notice of certain technical facts. Applicant respectfully traverses on the basis that Claims 2 and 6 are not obvious. In addition, Applicant respectfully traverses the Examiner's taking of official notice in this regard as impermissible hindsight and as an improper assertion of technical fact in an area of esoteric technology without support by citation of any reference work. *See* MPEP 2144.03 (citing *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 422-21 (CCPA 1970)).

Maxwell describes methods and apparatuses for associating a text message with an audio message transmitted to a mobile unit in a cellular telephone network. Claim 2 of the claimed invention, by contrast, describes the use of an acknowledgement signal transmitter 26 and receiver 14 for use in connection with the advertisement providing system, while Claim 6 describes conversion of sound advertisement data into a sound signal prior to transmission of such advertisement acknowledgement signal such that reception of such acknowledgement signal 14, 202 causes provision of an advertising service to be started 16, 203.

Recognizing that Maxwell does not discuss the use of acknowledgement signals, the Examiner, without citation of any reference work, relies upon official notice "that [it] is old and well known to transmit acknowledgement back to message trasnmitting site in the art of wireless communication." As noted above, however, it is improper to assert technical fact in an area of esoteric technology such as this without citation of any reference work.

Claims 2 and 6 are properly viewed as patentable over prior art.

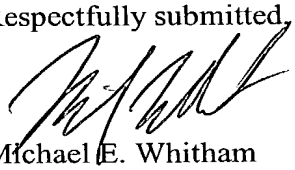
Conclusion

In view of the foregoing, Applicant submits that all of the claims are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the

telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson).

Respectfully submitted,



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